



DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Notice

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the ADDRESSES

section of this notice. ICRs also are available at [reginfo.gov](http://www.reginfo.gov) (<http://www.reginfo.gov/public/do/PRAMain>).

DATES: Written comments must be submitted to the office shown in the Addresses section on or before [INSERT DATE THAT IS 60 DAYS FOLLOWING THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210, (202) 693-8410, FAX (202) 693-4745 (these are not toll-free numbers).

I. SUPPLEMENTARY INFORMATION:

This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor

Title: Notice of Medical Necessity Criteria under the Mental Health Parity and Addition Equity Act of 2008

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0138

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 446,400

Responses: 446,400

Estimated Total Burden Hours: 949

Estimated Total Burden Cost (Operating and Maintenance): \$562,506

Description: MHPAEA includes disclosure provisions for group health plans and health insurance coverage offered in connection with a group health plan. The criteria for medical necessity determinations made under a group health plan with respect to mental health or substance use disorder benefits (or health insurance coverage offered in connection with the plan with respect to such benefits) must be made available in accordance with regulations by the plan administrator (or the health insurance issuer offering such coverage) to any current or potential participant, beneficiary, or contracting provider upon request (“medical necessity disclosure”). The ICR contained in MHPAEA was approved by the Office of Management and Budget (OMB) under OMB Control No. 1210-0138, which currently is scheduled to expire on January 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: PTE 2006-16 (Securities Lending by Employee Benefit Plans)

Type of Review: Extension of a currently approved information collection

OMB Number: 1210-0065

Affected Public: Individuals or households; business or other for-profit institutions; not-for-profit institutions.

Respondents: 100

Responses: 1,000

Estimated Total Burden Hours: 191

Estimated Total Burden Cost (Operating and Maintenance): \$5,600

Description: This ICR covers information collections contained in PTE 2006-16. In 1981 and 1982, the Department issued two related prohibited transaction class exemptions, PTE 81-6 and PTE 82-63, that permit employee benefit plans to lend securities owned by the plans as investments to banks and broker-dealers and to make compensation arrangements for lending services provided by a plan fiduciary in connection with securities loans. In 2006, the Department promulgated PTE 2006-16, which combines and amends the exemptions previously provided under PTE 81-6 and PTE 82-63. The new exemption expands the categories of exempted transactions to include securities lending to foreign banks and broker-dealers that are domiciled in specified countries and to allow the use of additional forms of collateral, all subject to specified conditions.

Among other conditions, the class exemption requires that a bank or broker-dealer that borrows securities from a plan must provide the plan with its most recent audited financial statement. The borrower must also affirm, when the loan is negotiated, that there has been no material adverse change in its financial condition since the previously audited statement.

The exemption also requires the agreements regarding the securities loan transaction or transactions and the compensation arrangement for the lending fiduciary to be contained in written documents. Individual agreements are not required for each transaction; rather the compensation agreement may be made in the form of a master agreement covering a series of transactions. The ICRs contained in PTE 2006-16 were approved by the Office of Management and Budget (OMB) under OMB Control No. 1210-0065, which currently is scheduled to expire on February 28, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Multiemployer Plan Access to Information

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0131

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 3,000

Responses: 255,000

Estimated Total Burden Hours: 32,000

Estimated Total Burden Cost (Operating and Maintenance): \$457,000

Description: This final rule implements section 101(k) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Pension Protection Act of 2006. Section 101(k) requires the administrator of a multiemployer plan to provide copies of certain actuarial and financial documents about the plan to participants, beneficiaries, employee representatives and contributing employers upon request. The final rule affects

plan administrators, participants and beneficiaries and contributing employers of multiemployer plans. In connection with publication of this final rule, the Department submitted an ICR to OMB for its request of a new collection. OMB approved the ICR on February 21, 2010, under OMB Control Number 1210-0131, which expires on February 28, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: ERISA Investment Manager Electronic Registration

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0125

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 10

Responses: 10

Estimated Total Burden Hours: 12

Estimated Total Burden Cost (Operating and Maintenance): \$730

Description: Section 3(38)(B) of ERISA imposes certain registration requirements on an investment adviser that wishes to be considered an investment manager under ERISA. In 1997, section 3(38) was amended to permit advisers to satisfy the registration requirements by registering electronically with the Investment Adviser Registration Depository (IARD) established and maintained by the Securities Exchange Commission (SEC). The Department promulgated a final regulation (69 FR 52120, Aug. 24, 2004) to implement the statutory change. The final regulation is codified at 29 CFR 2510.3-38.

EBSA submitted an ICR requesting OMB approval of the information collection contained in 29 CFR 2510.3-38, and OMB approved the information collection under OMB control number 1210-0125. The approval is scheduled to expire on March 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Summary Plan Description Requirements under ERISA

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0039

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 3,507,787

Responses: 108,006,000

Estimated Total Burden Hours: 262,000

Estimated Total Burden Cost (Operating and Maintenance): \$295,148,000

Description: Section 104(b) of ERISA requires the administrator of an employee benefit plan to furnish plan participants and certain beneficiaries with a Summary Plan Description (SPD) that describes, in language understandable to an average plan participant, the benefits, rights, and obligations of participants in the plan. The information required to be contained in the SPD is set forth in section 102(b) of ERISA. To the extent that there is a material modification in the terms of the plan or a change in the required content of the SPD, section 104(b)(1) of ERISA requires the administrator to furnish participants and specified beneficiaries a summary of material modifications

(SMM) or summary of material reductions (SMR). The Department of Labor (Department) has issued regulations providing guidance on compliance with the requirements to furnish SPDs, SMMs, and SMRs. These regulations, which are codified at 29 CFR 2520.102-2, 102-3, and 29 CFR 104b-2 and 104b-3, contain information collections for which the Department has obtained OMB approval under the OMB Control No. 1210-0039. The current approval is scheduled to expire on April 30, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Employee Benefit Plan Claims Procedure under ERISA

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0053

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 6,646,164

Responses: 334,015,402

Estimated Total Burden Hours: 506,808

Estimated Total Burden Cost (Operating and Maintenance): \$509,877,037

Description: Section 503 of ERISA requires each employee benefit plan to provide, pursuant to regulations promulgated by the Secretary of Labor, notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied. The notice must set forth the specific reasons for the denial and must be written in a manner calculated to be understood by the claimant. Plans must also give a participant or

beneficiary whose claim has been denied a reasonable opportunity to obtain a full and fair review of any benefit claim denial by the appropriate named fiduciary.

The Department issued a regulation pertaining to benefit claims procedures in 1977 and amended that regulation in a Notice of Final Rulemaking (NFRM) published on November 21, 2000 (65 FR 70246). The regulation pertaining to benefit claims procedures is codified at 29 CFR 2560.503-1. The regulation requires plans to establish reasonable claims procedures that meet specified standards governing the timing and content of notices and disclosures. EBSA submitted an ICR for the information collections in 29 CFR 2560.503-1 to the Office of Management and Budget (OMB) for review and clearance in connection with publication of the NFRM, and OMB approved the information collections under OMB control number 1210-0053. That approval is scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: PTE 80-83 -- Sale of Securities to Reduce Indebtedness of Party in Interest

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0064

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 25

Responses: 25

Estimated Total Burden Hours: 15

Estimated Total Burden Cost (Operating and Maintenance): \$0

Description: PTE 80-83 provides an exemption from certain prohibited transaction provisions of ERISA and from certain taxes imposed by the Internal Revenue Code of 1986 (Code) for transactions in which an employee benefit plan purchases securities when the proceeds from such purchase may be used to reduce or retire a debt owed by a party in interest with respect to such plan, provided that specified conditions are met. Among other conditions, PTE 80-83 requires that adequate records pertaining to an exempted transaction be maintained for six years. The Department has approval from the Office of Management and Budget (OMB) for this information collection requirement under OMB Control No. 1210-0064. This approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Prohibited Transaction Class Exemption 75-1 Security Transactions with Broker-Dealers, Reporting Dealers and Banks

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0092

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 8,376

Responses: 8,376

Estimated Total Burden Hours: 1,396

Estimated Total Burden Cost (Operating and Maintenance): \$0

Description: PTE 75-1 provides exemptions from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA), and the Code for specified types of transactions between employee benefit plans and broker-dealers, reporting dealers and banks relating to securities purchases and sales, provided specified conditions are met. The exempted transactions include an employee benefit plan's purchase of securities from broker-dealers' inventories of stocks, from underwriting syndicates in which a plan fiduciary is a member, from banks, from reporting dealers, and from a market-maker even if a market-maker is a plan fiduciary. The exempted transactions also include, under certain conditions, a plan's accepting an extension of credit from a broker-dealer for the purpose of facilitating settlement of a securities transaction. Among other conditions, PTE 75-1 requires that a party seeking to rely on the exemption with respect to a transaction maintain adequate records of the transaction for a period of six years. The Department has obtained approval from the Office of Management and Budget (OMB) for this information collection under OMB Control No. 1210-0092. This approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: PTE 88-59 -- Residential Mortgage Financing Arrangements Involving Employee Benefit Plans

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0095

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 2,237

Responses: 11,184

Estimated Total Burden Hours: 932

Estimated Total Burden Cost (Operating and Maintenance): \$0

Description: PTE 88-59 provides an exemption from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Code for transactions in which an employee benefit plan provides mortgage financing to purchasers of residential dwelling units, provided specified conditions are met. Among other conditions, PTE 88-59 requires that adequate records pertaining to exempted transactions be maintained for the duration of the pertinent loan. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210-0095. The OMB approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Petition for Finding under Section 3(40) of ERISA

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0119

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 45

Responses: 45

Estimated Total Burden Hours: 225

Estimated Total Burden Cost (Operating and Maintenance): 163,268

Description: Rules codified beginning at 29 CFR 2570.150 set forth an administrative procedure ("procedural rules") for obtaining a determination by the Department as to whether a particular employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. These procedural rules concern specific criteria set forth in 29 CFR 2510.3-40 ("criteria rules"), which, if met, constitute a finding by the Department that a plan is collectively bargained. Plans that meet the requirements of the criteria rules are not subject to state law. Among other requirements, the procedural rules require submission of a petition and affidavits by parties seeking a finding. The Department has obtained approval from the Office of Management and Budget (OMB), under OMB Control No. 1210-0119, for the information collections contained in its rules for a finding under section 3(40). This approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Statutory Exemption for Cross-Trading of Securities

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0130

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 274

Responses: 2,462

Estimated Total Burden Hours: 2,859

Estimated Total Burden Cost (Operating and Maintenance): \$12,309

Description: The Interim Final Rule on Statutory Exemption for Cross-Trading of Securities implements the content requirements for the written cross-trading policies and procedures required under section 408(b)(19)(H) of ERISA, as added by section 611(g) of the Pension Protection Act of 2006, Public Law 109-280 (PPA). Section 611(g)(1) of the PPA created a new statutory exemption, added to section 408(b) of ERISA as subsection 408(b)(19), that exempts from the prohibitions of sections 406(a)(1)(A) and 406(b)(2) of ERISA those cross-trading transactions involving the purchase and sale of a security between an account holding assets of a pension plan and any other account managed by the same investment manager, provided that certain conditions are satisfied. Section 611(g)(3) of the PPA further directed the Secretary of Labor to issue regulations, within 180 days after enactment, regarding the content of the policies and procedures to be adopted by an investment manager to satisfy the conditions of the new statutory exemption.

The Department issued a final cross-trading regulation on October 7, 2008. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210-0130. The OMB approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Final Amendment to PTE 84-14 for Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0128

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 4,400

Responses: 8,800

Estimated Total Burden Hours: 108,900

Estimated Total Burden Cost (Operating and Maintenance): \$44,130,900

Description: The Final Amendment to PTE 84-14, a class exemption that permits various parties that are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by “qualified professional asset managers” (QPAMs) that are independent of the parties in interest and which meet specified financial standards provides additional exemptive relief for employers to furnish limited amounts of goods and services to a managed fund in the ordinary course of business. Limited relief is also provided for leases of office or commercial space between managed funds and QPAMs or contributing employers. Finally, relief is provided for transactions involving places of public accommodation owned by a managed fund. The amendment permits a QPAM to manage an investment fund containing the assets of the QPAM’s own plan or an affiliate’s plan.

The Department issued a final amendment on July 6, 2010. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for

which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210-0128. The OMB approval is currently scheduled to expire on July 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Final Amendment to Prohibited Transaction Exemption 96-23 for Plan Asset Transactions Determined by In-House Asset Managers

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0145

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 20

Responses: 40

Estimated Total Burden Hours: 1,240

Estimated Total Burden Cost (Operating and Maintenance): \$400,000

Description: This final amendment to PTE 96-23, a class exemption, permits various transactions involving employee benefit plans whose assets are managed by in-house asset managers (INHAMs), provided the conditions of the exemption are met. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA 95), the Department submitted the information collection request (ICR) included in the Proposed Amendment to PTE 96-23 for Plan Asset Transactions Determined by In-House Asset Managers to OMB for review and clearance at the time the Notice of the proposed exemption was published in the Federal Register (June 14, 2010, 75 FR 33642).

OMB approved the amendment under OMB control number 1210-0145, on July 26, 2010. The approval will expire on July 31, 2013.

II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: November 16, 2012

Joseph S. Piacentini

Director, Office of Policy and Research

Employee Benefits Security Administration

[Billing Code: 4510-29-P]

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